

BILL LOCKYER, Attorney General
of the State of California
FRANK H. PACOE
Supervising Deputy Attorney General
JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-1299
Facsimile: (415) 703-5480

Attorneys for Complainant

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

CYNTHIA A. GARZA
21 Larkfield Maples Ct.
Santa Rosa, CA 95403

Pharmacy Technician License No. TCH 38775

Respondent.

Case No. 3017

OAH No.

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 31, 2006, Complainant Virginia Herold, in her official capacity as the Interim Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3017 against Cynthia A. Garza (Respondent) before the Board of Pharmacy, Department of Consumer Affairs.

2. On or about August 16, 2001, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 38775 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2007, unless renewed.

3. On or about November 20, 2006, Fe M. Domingo, an employee of the Department of Justice, served by Certified and First Class Mail a copy of Accusation No. 3017, a Statement to Respondent, two copies of a Notice of Defense, a Request for Discovery, and copies

1 of Government Code sections 11507.5, 11507.6, and 11507.7, to Respondent's address of record
2 with the Board, which was and is 21 Larkfield Maples Court, Santa Rosa, CA 95403. Copies of
3 the Accusation, related documents, and Declaration of Service showing service to Respondent's
4 address of record are attached as Exhibit A, and are incorporated herein by reference.

5 4. On or about November 29, 2006, the aforementioned documents were
6 returned by the U.S. Postal Service marked "Not Deliverable as Addressed - Unable to Forward."
7 A copy of the documents and envelope returned by the U.S. Postal Service are attached hereto as
8 Exhibit B, and are incorporated herein by reference.

9 5. On or about November 30, 2006, Fe M. Domingo served, by Certified and
10 First Class Mail, the same materials (a copy of Accusation No. 3017, a Statement to Respondent,
11 two copies of a Notice of Defense, a Request for Discovery, and copies of Government Code
12 sections 11507.5, 11507.6, and 11507.7), to another address for Respondent, besides the address
13 of record, also known to the Board: P.O. Box 65831, Los Angeles, CA 90065. On or about
14 December 4, 2006, a Certified Mail Return Receipt card was received in the San Francisco office
15 of the Department of Justice, showing receipt of the Certified Mail copies, and signature therefor,
16 by Respondent on or about December 2, 2006. Copies of the Accusation, related documents,
17 Declaration of Service and Return Receipt card showing service to Respondent and acceptance of
18 delivery are attached as Exhibit C, and are incorporated herein by reference.

19 6. Service of the Accusation was effective as a matter of law under the
20 provisions of Government Code section 11505, subdivision (c).

21 7. Government Code section 11506 states, in pertinent part:

22 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
23 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
24 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
25 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

26 8. Respondent failed to file a Notice of Defense within 15 days after service
27 upon her of the Accusation, and therefore waived her right to a hearing on the merits of
28 Accusation No. 3017.

1 b. In violation of Business and Professions Code section 4301(g),
2 Respondent made and/or signed documents that falsely represented the existence or nonexistence
3 of a state of facts, by the conduct described in paragraph 4(a), above;

4 c. In violation of Business and Professions Code section 4301(j)
5 and/or (o), by reference to or inclusive of section 4059 of the Code and/or Health and Safety
6 Code section 11158, Respondent, as described in paragraph 4(a), above, furnished/dispensed to
7 herself or to others, without valid prescriptions, controlled substances and/or dangerous drugs;

8 d. In violation of Business and Professions Code section 4301(j)
9 and/or (o), by reference to or inclusive of section 4060 of the Code and/or Health and Safety
10 Code sections 11350 and/or 11377, Respondent, as described in paragraph 4(a), above,
11 possessed, without valid prescriptions, controlled substances and/or dangerous drugs;

12 e. In violation of Business and Professions Code section 4301(j)
13 and/or (o), by reference to or inclusive of section 4063 of the Code, Respondent, as described in
14 paragraph 4(a), above, refilled and/or conspired to refill, without prescriber authorization, refills
15 for controlled substances and/or dangerous drugs;

16 f. In violation of Business and Professions Code section 4301(j)
17 and/or (o), by reference to or inclusive of Health and Safety Code section 11173, Respondent, as
18 described in paragraph 4(a), above, procured or attempted to procure administration of or
19 prescription(s) for controlled substances, by fraud, deceit, misrepresentation, subterfuge, or by
20 the concealment of a material fact;

21 g. In violation of Business and Professions Code section 4301
22 Respondent, as described in paragraph 4(a), above, engaged in unprofessional conduct.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

ORDER

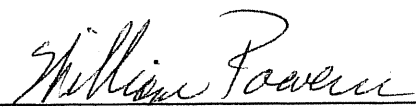
IT IS SO ORDERED that Pharmacy Technician License No. TCH 38775, heretofore issued to Respondent Cynthia A. Garza, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined by statute.

This Decision shall become effective on March 9, 2007.

It is so ORDERED February 7, 2007

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
WILLIAM POWERS
Board President

40118666.wpd

DOJ docket number:SF2006402253

Attachments:

Exhibit A: Accusation No.3017, Related Documents, and Declaration of Service
Exhibit B: Postal Return Documents
Exhibit C: Accusation No.3017, Related Documents, and Declaration of Service (2nd service)

Exhibit A

Accusation No. 3017,
Related Documents and Declaration of Service

1 BILL LOCKYER, Attorney General
of the State of California
2 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

7 **BEFORE THE**
8 **BOARD OF PHARMACY**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 CYNTHIA A. GARZA
21 Larkfield Maples Court
Santa Rosa, CA 95403

13 Pharmacy Technician License No. TCH 38775

14 Respondent.

Case No. 3017

OAH No.

A C C U S A T I O N

15
16 Complainant alleges:

17 PARTIES

18 1. Virginia Herold (Complainant) brings this Accusation solely in her official
19 capacity as Interim Executive Officer, Board of Pharmacy, Department of Consumer Affairs.

20 2. On or about August 16, 2001, the Board of Pharmacy issued Pharmacy
21 Technician License No. TCH 38775 to Cynthia A. Garza (Respondent). The License was in full
22 force and effect at all times relevant to the charges brought herein and will expire on February
23 28, 2007, unless renewed.

24
25 JURISDICTION

26 3. This Accusation is brought before the Board of Pharmacy (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].

5. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked.

6. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Section 4402(a) of the Code provides that any license that is not renewed within three years following its expiration may not be renewed, restored, or reinstated and shall be canceled by operation of law at the end of the three-year period.

STATUTORY PROVISIONS

7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action against any holder of a license who is guilty of "unprofessional conduct," defined to include, but not be limited to, any of the following:

“(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

“(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

“(j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs.

///

“(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board.

8. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous drug or dangerous device except upon the prescription of an authorized prescriber.

9. Section 4060 of the Code provides, in pertinent part, that no person shall possess any controlled substance, except that furnished upon a valid prescription/drug order.

10. Section 4063 of the Code provides, in pertinent part, that no prescription for a dangerous drug may be refilled except upon authorization of the prescriber.

11. Health and Safety Code section 11158 provides, in pertinent part, that no controlled substance in Scheduled II-V may be dispensed without a prescription.

12. Health and Safety Code section 11170 provides that no person shall prescribe, administer, or furnish a controlled substance for himself or herself.

13. Health and Safety Code section 11173, subdivision (a), provides that no person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

14. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess certain Schedule I-III controlled substances, or any controlled substance in Schedules III-V which is a narcotic drug, unless upon written prescription of an authorized prescriber.

15. Health and Safety Code section 11377, in pertinent part, makes it unlawful to possess certain Schedule I-III controlled substances, or any controlled substance in Schedules III-V which is not a narcotic drug, unless upon written prescription of an authorized prescriber.

16. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation of the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

CONTROLLED SUBSTANCES / DANGEROUS DRUGS

17. Section 4021 of the Code states:

“‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.”

18. Section 4022 of the Code states, in pertinent part:

“‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, and includes the following:

“(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without prescription,’ ‘Rx only,’ or words of similar import.

...

“(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.”

19. **Norco, Vicodin, Vicodin ES, Lortab, and Lorcet** are brand names for compounds of varying dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous drug as designated by Business and Professions Code section 4022. These varying compounds are also known generically as **Hydrocodone with APAP**. These are narcotic drugs.

As is pertinent here:

a. **Norco 10/325** is a brand name for a compound combining 10 mg **hydrocodone** with 325 mg acetaminophen (APAP).

b. **Vicodin ES** is a brand name for a compound combining 7.5 mg **hydrocodone** with 750 mg acetaminophen (APAP).

c. **Hydrocodone/APAP 7.5/750** is the generic equivalent of **Vicodin ES**, i.e., a compound combining 7.5 mg **hydrocodone** with 750 mg acetaminophen (APAP).

20. **Ambien** is a brand name for **zolpidem tartrate**, a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(32) and a dangerous drug as designated by Business and Professions Code section 4022. It is a depressant drug. It is sold in either 5mg or 10mg tablets, thus **Ambien 10mg** designates the latter dosage.

21. **Soma** is a brand name for **carisoprodol**, a dangerous drug designated by Business and Professions Code section 4022, intended as a skeletal muscle relaxant. It is also known by its generic name **Carisoprodol 350mg**, designating the tablet/dosage amount.

FACTUAL BACKGROUND

22. From on or about November 4, 2001 until on or about February 24, 2005, Respondent was employed as a pharmacy technician at Wal-Mart Pharmacy 10-2553, located in Windsor, CA (PHY 44126). Respondent was subsequently employed by Walgreens Pharmacy as a float pharmacy technician from on or about May 16, 2005 until on or about October 14, 2005, primarily working at Walgreens Pharmacy 6722 (PHY 45955) located in Santa Rosa, CA.

23. While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her own prescriptions (prescriptions in her name) for **Norco 10/325** without proper authorization from the prescriber on June 11, 2004, July 20, 2004, and August 23, 2004, thereby acquiring a total of 300 tablets of **Norco 10/325**.

24. While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her own prescriptions (prescriptions in her name) for **Vicodin ES** without proper authorization from the prescriber on July 30, 2004, December 29, 2004, and January 18, 2005, thereby acquiring a total of 220 tablets of **Vicodin ES**.

25. While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her own prescriptions (prescriptions in her name) for **Hydrocodone/APAP 7.5/750** (generic **Vicodin ES**) without proper authorization from the prescriber on December 6, 2004, January 8, 2005, and February 24, 2005, thereby acquiring a total of 180 tablets of **Hydrocodone/APAP 7.5/750** (generic **Vicodin ES**).

26. While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her own prescriptions (prescriptions in her name) for **Ambien 10mg** without proper authorization from the prescriber on July 29, 2004, December 6, 2004, and December 31, 2004, thereby acquiring a total of 90 tablets of **Ambien 10mg**.

///

1 27. While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her
2 own prescription (prescription in her name) for **Carisoprodol 350mg** (generic **Soma**) without
3 proper authorization from the prescriber on July 29, 2004, thereby acquiring a total of 100 tablets
4 of **Carisoprodol 350mg** (generic **Soma**).

5 28. While working at Wal-Mart Pharmacy 10-2553, Respondent created a
6 false prescription document for Patient D.C.¹ for **Carisoprodol 350mg** (generic **Soma**), for 90
7 tablets with two refills of the same number of tablets, on October 26, 2004.

8 29. While working at Wal-Mart Pharmacy 10-2553, Respondent created a
9 false prescription document for Patient D.C.¹ for **Carisoprodol 350mg** (generic **Soma**), for 90
10 tablets with three refills of the same number of tablets, on February 4, 2005.

11 30. While working at Walgreens Pharmacy 6722, Respondent refilled her own
12 prescriptions (prescriptions in her name) for **Hydrocodone/APAP 7.5/750** (generic **Vicodin ES**)
13 without proper authorization from the prescriber on August 3, 2005 and September 9, 2005,
14 thereby acquiring a total of 120 tablets of **Hydrocodone/APAP 7.5/750** (generic **Vicodin ES**).

15 31. While working at Walgreens Pharmacy 6722, Respondent conspired with
16 another pharmacy technician (M.P.)¹ to refill Respondent's own prescription (prescription in her
17 name) for 60 tablets of **Hydrocodone/APAP 7.5/750** (generic **Vicodin ES**), without proper
18 authorization from the prescriber, on September 23, 2005.

19 32. Respondent admitted that while at Walgreens Pharmacy 6722 she stole 3
20 tablets of **Vicodin ES**, and paid for/received 60 tablets of **Vicodin ES** on an unauthorized refill.

21
22 FIRST CAUSE FOR DISCIPLINE

23 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

24 33. Respondent is subject to discipline under section 4301(f) of the Code in
25 that Respondent, as described in paragraphs 22-31 above, committed acts involving moral
26 turpitude, dishonesty, fraud, deceit, or corruption.

27
28 _____
21. A full name will be provided to Respondent as needed during discovery.

1 assisted in or abetted violation of or conspired to violate laws regulating controlled substances
2 and dangerous drugs and/or laws governing pharmacy, when Respondent, without prescriber
3 authorization, refilled and/or conspired to refill, prescriptions for controlled substances and/or
4 dangerous drugs, in violation of section 4063 of the Code.

5
6 SIXTH CAUSE FOR DISCIPLINE

7 (Unlawful Self-Furnishing of Controlled Substances)

8 38. Respondent is subject to discipline under sections 4301(j) and/or (o) of the
9 Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate,
10 assisted in or abetted violation of or conspired to violate laws regulating controlled substances
11 and dangerous drugs and/or laws governing pharmacy, when Respondent, in violation of Health
12 and Safety Code section 11170, self-furnished controlled substances and/or dangerous drugs.

13
14 SEVENTH CAUSE FOR DISCIPLINE

15 (Obtaining Controlled Substances by Fraud or Deceit)

16 39. Respondent is subject to discipline under sections 4301(j) and/or (o) of the
17 Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate,
18 assisted in or abetted violation of or conspired to violate laws regulating controlled substances
19 and dangerous drugs and/or laws governing pharmacy, when Respondent, in violation of Health
20 and Safety Code section 11173, obtained controlled substances and/or dangerous drugs by fraud,
21 deceit, misrepresentation, subterfuge, or by the concealment of a material fact.

22
23 EIGHTH CAUSE FOR DISCIPLINE

24 (Unprofessional Conduct)

25 40. Respondent is subject to discipline under section 4301 of the Code in that
26 Respondent, as described in paragraphs 23-28 above, engaged in unprofessional conduct.

27 ///

28 ///

PRAYER

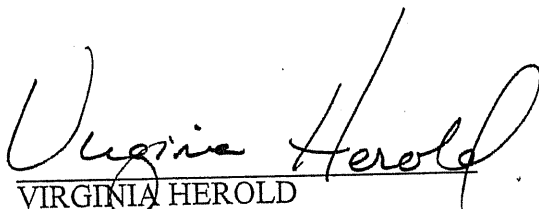
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy (Board) issue a decision:

A. Revoking or suspending Pharmacy Technician License No. Number TCH 38775, issued to Cynthia A. Garza (Respondent);

B. Ordering Respondent to pay the Board reasonable costs of investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

C. Taking such other and further action as deemed necessary and proper.

DATED: 10/31/06



VIRGINIA HEROLD
Interim Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

SF2006402253

40108378.wpd

1 BILL LOCKYER, Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
4 California Department of Justice
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 CYNTHIA A. GARZA

14 Respondent.

Case No. 3017

STATEMENT TO RESPONDENT

[Gov. Code §§ 11504, 11505(b)]

15 TO RESPONDENT:

16 Enclosed is a copy of the Accusation that has been filed with the Board of
17 Pharmacy of the Department of Consumer Affairs (Board), and which is hereby served on you.

18 Unless a written request for a hearing signed by you or on your behalf is delivered
19 or mailed to the Board, represented by Deputy Attorney General Joshua A. Room, within fifteen
20 (15) days after a copy of the Accusation was personally served on you or mailed to you, you will
21 be deemed to have waived your right to a hearing in this matter and the Board may proceed upon
22 the Accusation without a hearing and may take action thereon as provided by law.

23 The request for hearing may be made by delivering or mailing one of the enclosed
24 forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided
25 in section 11506 of the Government Code, to

26 **Joshua A. Room**
27 **Deputy Attorney General**
28 **455 Golden Gate Avenue, Suite 11000**
San Francisco, California 94102.

1 You may, but need not, be represented by counsel at any or all stages of these
2 proceedings.

3 The enclosed Notice of Defense, if signed and filed with the Board, shall be
4 deemed a specific denial of all parts of the Accusation, but you will not be permitted to raise any
5 objection to the form of the Accusation unless you file a further Notice of Defense as provided in
6 section 11506 of the Government Code within fifteen (15) days after service of the Accusation
7 on you.

8 If you file any Notice of Defense within the time permitted, a hearing will be held
9 on the charges made in the Accusation.

10 The hearing may be postponed for good cause. If you have good cause, you are
11 obliged to notify the Office of Administrative Hearings, 1515 Clay Street, Suite 206, Oakland,
12 California 94612, within ten (10) working days after you discover the good cause. Failure to
13 notify the Office of Administrative Hearings within ten (10) days will deprive you of a
14 postponement.

15 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are
16 enclosed.

17 If you desire the names and addresses of witnesses or an opportunity to inspect
18 and copy the items mentioned in section 11507.6 of the Government Code in the possession,
19 custody or control of the Board you may send a Request for Discovery to the above designated
20 Deputy Attorney General.

21 **NOTICE REGARDING STIPULATED SETTLEMENTS**

22 It may be possible to avoid the time, expense and uncertainties involved in an
23 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated
24 settlement is a binding written agreement between you and the government regarding the matters
25 charged and the discipline to be imposed. Such a stipulation would have to be approved by the
26 Board of Pharmacy but, once approved, it would be incorporated into a final order.

27 Any stipulation must be consistent with the Board's established disciplinary
28 guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the

1 Board's Disciplinary Guidelines will be provided to you on your written request to the state
2 agency bringing this action.

3 If you are interested in pursuing this alternative to a formal administrative hearing,
4 or if you have any questions, you or your attorney should contact Deputy Attorney General
5 Joshua A. Room at the earliest opportunity.

6 *****

7 SF2006402253
8 40115539.wpd
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

CYNTHIA A. GARZA

Respondent.

Case No. 3017

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name

Respondent's Signature

Respondent's Mailing Address

City, State and Zip Code

Respondent's Telephone Number

Check appropriate box:

- ☐ I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name

Counsel's Mailing Address

City, State and Zip Code

Counsel's Telephone Number

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

40115539.wpd

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

CYNTHIA A. GARZA

Respondent.

Case No. 3017

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name _____

Respondent's Signature _____

Respondent's Mailing Address _____

City, State and Zip Code _____

Respondent's Telephone Number _____

Check appropriate box:

- ☐ I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

40115539.wpd

1 BILL LOCKYER, Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
4 California Department of Justice
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 CYNTHIA A. GARZA

13 Respondent.

Case No. 3017

REQUEST FOR DISCOVERY

[Gov. Code § 11507.6]

14 TO RESPONDENT:

15 Under section 11507.6 of the Government Code of the State of California, parties
16 to an administrative hearing, including the Complainant, are entitled to certain information
17 concerning the opposing party's case. A copy of the provisions of section 11507.6 of the
18 Government Code concerning such rights is included among the papers served.

19 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU
20 ARE HEREBY REQUESTED TO:

- 21 1. Provide the names and addresses of witnesses to the extent known to the
22 Respondent, including, but not limited to, those intended to be called to testify at the hearing, and
- 23 2. Provide an opportunity for the Complainant to inspect and make a copy of any of
24 the following in the possession or custody or under control of the Respondent:
 - 25 a. A statement of a person, other than the Respondent, named in the initial
26 administrative pleading, or in any additional pleading, when it is claimed that the act or
27 omission of the Respondent as to this person is the basis for the administrative
28 proceeding;

1 b. A statement pertaining to the subject matter of the proceeding made by any
2 party to another party or persons;

3 c. Statements of witnesses then proposed to be called by the Respondent and
4 of other persons having personal knowledge of the acts, omissions or events which are the
5 basis for the proceeding, not included in (a) or (b) above;

6 d. All writings, including but not limited to reports of mental, physical and
7 blood examinations and things which the Respondent now proposes to offer in evidence;

8 e. Any other writing or thing which is relevant and which would be
9 admissible in evidence, including but not limited to, any patient or hospital records
10 pertaining to the persons named in the pleading;

11 f. Investigative reports made by or on behalf of the Respondent pertaining to
12 the subject matter of the proceeding, to the extent that these reports (1) contain the names
13 and addresses of witnesses or of persons having personal knowledge of the acts,
14 omissions or events which are the basis for the proceeding, or (2) reflect matters
15 perceived by the investigator in the course of his or her investigation, or (3) contain or
16 include by attachment any statement or writing described in (a) to (e), inclusive, or
17 summary thereof.

18
19 For the purpose of this Request for Discovery, "statements" include written
20 statements by the person, signed, or otherwise authenticated by him or her, stenographic,
21 mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person,
22 and written reports or summaries of these oral statements.

23
24 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for
25 Discovery should be deemed to authorize the inspection or copying of any writing or thing which
26 is privileged from disclosure by law or otherwise made confidential or protected as attorney's
27 work product.

28 ///

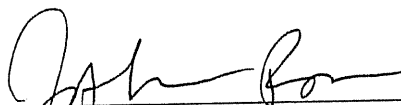
1 Your response to this Request for Discovery should be directed to the undersigned
2 attorney for the Complainant at the address on the first page of this Request for Discovery **within**
3 **30 days after service** of the Accusation.

4 Failure without substantial justification to comply with this Request for Discovery
5 may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30
6 of the Government Code.

7 DATED: 11/20/06

8 BILL LOCKYER, Attorney General
of the State of California

9 FRANK H. PACOE
10 Supervising Deputy Attorney General

11 
12

13 JOSHUA A. ROOM
14 Deputy Attorney General

15 Attorneys for Complainant

16 40115539.wpd
17
18
19
20
21
22
23
24
25
26
27
28

COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

DECLARATION OF SERVICE
(Certified and First Class Mail)

In the Matter of the Accusation Against: *Cynthia A. Garza*
Agency Case No. **3017**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On November 20, 2006, I served the attached **Accusation, Statement to Respondent, Notice of Defense (2 copies), Request for Discovery, and Discovery Statutes** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the same document(s) was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

CYNTHIA A. GARZA
21 Larkfield Maples Court
Santa Rosa, CA 95403

Certified Article Number

7160 3901 9849 2870 8709

SENDERS RECORD

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on November 20, 2006 at San Francisco, California.

FE M. DOMINGO

Typed Name

fm Domingo

Signature

7160 3901 9849 2870 8709

TO: CYNTHIA A. GARZA
21 Larkfield Maples Court
Santa Rosa, CA 95403

SENDER: JAR

REFERENCE: Acc Pkt

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

US Postal Service
**Receipt for
Certified Mail**

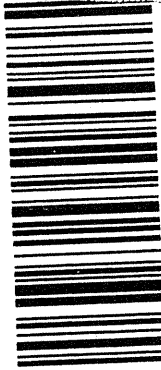
No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

Exhibit B
Postal Return Documents

RNIA
EY GENERAL
USTICE
SUITE 11000
34102-7004

CERTIFIED MAIL



71150 3901 9849 2870 8705

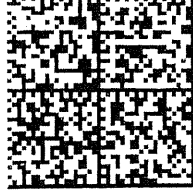
049J82033954

\$05.360

11/20/2006

Mailed From 94102

US POSTAGE

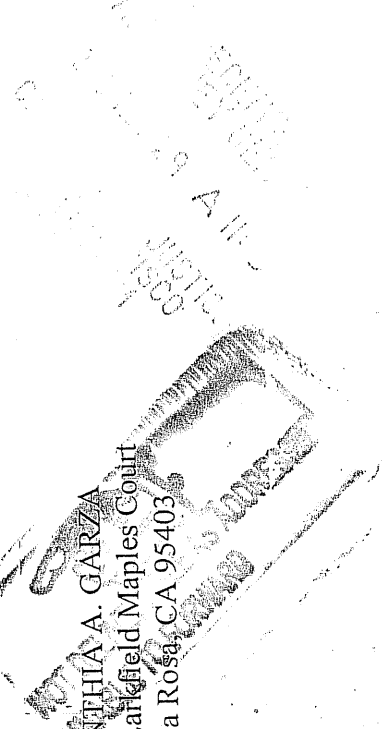


neopost

RETURN RECEIPT REQUESTED

11

CYNTHIA A. GARZA
21 Langfield Maples Court
Santa Rosa, CA 95403



1 BILL LOCKYER, Attorney General
of the State of California
2 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

7 **BEFORE THE**
8 **BOARD OF PHARMACY**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 CYNTHIA A. GARZA
21 Larkfield Maples Court
Santa Rosa, CA 95403

13 Pharmacy Technician License No. TCH 38775

14 Respondent.

Case No. 3017

OAH No.

A C C U S A T I O N .

15
16 Complainant alleges:

17 PARTIES

18 1. Virginia Herold (Complainant) brings this Accusation solely in her official
19 capacity as Interim Executive Officer, Board of Pharmacy, Department of Consumer Affairs.

20 2. On or about August 16, 2001, the Board of Pharmacy issued Pharmacy
21 Technician License No. TCH 38775 to Cynthia A. Garza (Respondent). The License was in full
22 force and effect at all times relevant to the charges brought herein and will expire on February
23 28, 2007, unless renewed.

24
25 JURISDICTION

26 3. This Accusation is brought before the Board of Pharmacy (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].

5. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked:

6. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Section 4402(a) of the Code provides that any license that is not renewed within three years following its expiration may not be renewed, restored, or reinstated and shall be canceled by operation of law at the end of the three-year period.

STATUTORY PROVISIONS

7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action against any holder of a license who is guilty of "unprofessional conduct," defined to include, but not be limited to, any of the following:

“(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

“(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

“(j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs.

CONTROLLED SUBSTANCES / DANGEROUS DRUGS

17. Section 4021 of the Code states:

“‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.”

18. Section 4022 of the Code states, in pertinent part:

“‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, and includes the following:

“(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without prescription,’ ‘Rx only,’ or words of similar import.

...

“(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.”

19. **Norco, Vicodin, Vicodin ES, Lortab, and Lorcet** are brand names for compounds of varying dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous drug as designated by Business and Professions Code section 4022. These varying compounds are also known generically as **Hydrocodone with APAP**. These are narcotic drugs.

As is pertinent here:

a. **Norco 10/325** is a brand name for a compound combining 10 mg **hydrocodone** with 325 mg acetaminophen (APAP).

b. **Vicodin ES** is a brand name for a compound combining 7.5 mg **hydrocodone** with 750 mg acetaminophen (APAP).

c. **Hydrocodone/APAP 7.5/750** is the generic equivalent of **Vicodin ES**, i.e., a compound combining 7.5 mg **hydrocodone** with 750 mg acetaminophen (APAP).

20. **Ambien** is a brand name for **zolpidem tartrate**, a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(32) and a dangerous drug as designated by Business and Professions Code section 4022. It is a depressant drug. It is sold in either 5mg or 10mg tablets, thus **Ambien 10mg** designates the latter dosage.

1 21. **Soma** is a brand name for **carisoprodol**, a dangerous drug designated by
2 Business and Professions Code section 4022, intended as a skeletal muscle relaxant. It is also
3 known by its generic name **Carisoprodol 350mg**, designating the tablet/dosage amount.
4

5 FACTUAL BACKGROUND

6 22. From on or about November 4, 2001 until on or about February 24, 2005,
7 Respondent was employed as a pharmacy technician at Wal-Mart Pharmacy 10-2553, located in
8 Windsor, CA (PHY 44126). Respondent was subsequently employed by Walgreens Pharmacy as
9 a float pharmacy technician from on or about May 16, 2005 until on or about October 14, 2005,
10 primarily working at Walgreens Pharmacy 6722 (PHY 45955) located in Santa Rosa, CA.

11 23. While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her
12 own prescriptions (prescriptions in her name) for **Norco 10/325** without proper authorization
13 from the prescriber on June 11, 2004, July 20, 2004, and August 23, 2004, thereby acquiring a
14 total of 300 tablets of **Norco 10/325**.

15 24. While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her
16 own prescriptions (prescriptions in her name) for **Vicodin ES** without proper authorization from
17 the prescriber on July 30, 2004, December 29, 2004, and January 18, 2005, thereby acquiring a
18 total of 220 tablets of **Vicodin ES**.

19 25. While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her
20 own prescriptions (prescriptions in her name) for **Hydrocodone/APAP 7.5/750** (generic **Vicodin**
21 **ES**) without proper authorization from the prescriber on December 6, 2004, January 8, 2005, and
22 February 24, 2005, thereby acquiring a total of 180 tablets of **Hydrocodone/APAP 7.5/750**
23 (generic **Vicodin ES**).

24 26. While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her
25 own prescriptions (prescriptions in her name) for **Ambien 10mg** without proper authorization
26 from the prescriber on July 29, 2004, December 6, 2004, and December 31, 2004, thereby
27 acquiring a total of 90 tablets of **Ambien 10mg**.

28 ///

1 27. While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her
2 own prescription (prescription in her name) for **Carisoprodol 350mg** (generic **Soma**) without
3 proper authorization from the prescriber on July 29, 2004, thereby acquiring a total of 100 tablets
4 of **Carisoprodol 350mg** (generic **Soma**).

5 28. While working at Wal-Mart Pharmacy 10-2553, Respondent created a
6 false prescription document for Patient D.C.¹ for **Carisoprodol 350mg** (generic **Soma**), for 90
7 tablets with two refills of the same number of tablets, on October 26, 2004.

8 29. While working at Wal-Mart Pharmacy 10-2553, Respondent created a
9 false prescription document for Patient D.C.¹ for **Carisoprodol 350mg** (generic **Soma**), for 90
10 tablets with three refills of the same number of tablets, on February 4, 2005.

11 30. While working at Walgreens Pharmacy 6722, Respondent refilled her own
12 prescriptions (prescriptions in her name) for **Hydrocodone/APAP 7.5/750** (generic **Vicodin ES**)
13 without proper authorization from the prescriber on August 3, 2005 and September 9, 2005,
14 thereby acquiring a total of 120 tablets of **Hydrocodone/APAP 7.5/750** (generic **Vicodin ES**).

15 31. While working at Walgreens Pharmacy 6722, Respondent conspired with
16 another pharmacy technician (M.P.)¹ to refill Respondent's own prescription (prescription in her
17 name) for 60 tablets of **Hydrocodone/APAP 7.5/750** (generic **Vicodin ES**), without proper
18 authorization from the prescriber, on September 23, 2005.

19 32. Respondent admitted that while at Walgreens Pharmacy 6722 she stole 3
20 tablets of **Vicodin ES**, and paid for/received 60 tablets of **Vicodin ES** on an unauthorized refill.

21
22 FIRST CAUSE FOR DISCIPLINE

23 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

24 33. Respondent is subject to discipline under section 4301(f) of the Code in
25 that Respondent, as described in paragraphs 22-31 above, committed acts involving moral
26 turpitude, dishonesty, fraud, deceit, or corruption.

27
28 1. A full name will be provided to Respondent as needed during discovery.

1 assisted in or abetted violation of or conspired to violate laws regulating controlled substances
2 and dangerous drugs and/or laws governing pharmacy, when Respondent, without prescriber
3 authorization, refilled and/or conspired to refill, prescriptions for controlled substances and/or
4 dangerous drugs, in violation of section 4063 of the Code.

5 6 SIXTH CAUSE FOR DISCIPLINE

7 (Unlawful Self-Furnishing of Controlled Substances)

8 38. Respondent is subject to discipline under sections 4301(j) and/or (o) of the
9 Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate,
10 assisted in or abetted violation of or conspired to violate laws regulating controlled substances
11 and dangerous drugs and/or laws governing pharmacy, when Respondent, in violation of Health
12 and Safety Code section 11170, self-furnished controlled substances and/or dangerous drugs.

13 14 SEVENTH CAUSE FOR DISCIPLINE

15 (Obtaining Controlled Substances by Fraud or Deceit)

16 39. Respondent is subject to discipline under sections 4301(j) and/or (o) of the
17 Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate,
18 assisted in or abetted violation of or conspired to violate laws regulating controlled substances
19 and dangerous drugs and/or laws governing pharmacy, when Respondent, in violation of Health
20 and Safety Code section 11173, obtained controlled substances and/or dangerous drugs by fraud,
21 deceit, misrepresentation, subterfuge, or by the concealment of a material fact.

22 23 EIGHTH CAUSE FOR DISCIPLINE

24 (Unprofessional Conduct)

25 40. Respondent is subject to discipline under section 4301 of the Code in that
26 Respondent, as described in paragraphs 23-28 above, engaged in unprofessional conduct.

27 ///

28 ///

PRAYER

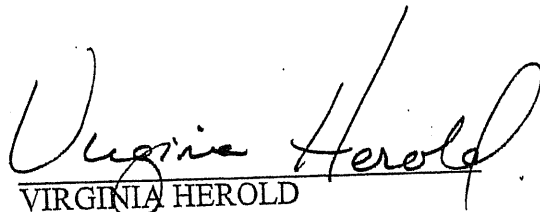
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy (Board) issue a decision:

A. Revoking or suspending Pharmacy Technician License No. Number TCH 38775, issued to Cynthia A. Garza (Respondent);

B. Ordering Respondent to pay the Board reasonable costs of investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

C. Taking such other and further action as deemed necessary and proper.

DATED: 10/31/06



VIRGINIA HEROLD
Interim Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

SF2006402253

40108378.wpd

1 BILL LOCKYER, Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
4 California Department of Justice
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 CYNTHIA A. GARZA

14 Respondent.

Case No. 3017

STATEMENT TO RESPONDENT

[Gov. Code §§ 11504, 11505(b)]

15 **TO RESPONDENT:**

16 Enclosed is a copy of the Accusation that has been filed with the Board of
17 Pharmacy of the Department of Consumer Affairs (Board), and which is hereby served on you.

18 Unless a written request for a hearing signed by you or on your behalf is delivered
19 or mailed to the Board, represented by Deputy Attorney General Joshua A. Room, within fifteen
20 (15) days after a copy of the Accusation was personally served on you or mailed to you, you will
21 be deemed to have waived your right to a hearing in this matter and the Board may proceed upon
22 the Accusation without a hearing and may take action thereon as provided by law.

23 The request for hearing may be made by delivering or mailing one of the enclosed
24 forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided
25 in section 11506 of the Government Code, to

26 **Joshua A. Room**
27 **Deputy Attorney General**
28 **455 Golden Gate Avenue, Suite 11000**
San Francisco, California 94102.

1 You may, but need not, be represented by counsel at any or all stages of these
2 proceedings.

3 The enclosed Notice of Defense, if signed and filed with the Board, shall be
4 deemed a specific denial of all parts of the Accusation, but you will not be permitted to raise any
5 objection to the form of the Accusation unless you file a further Notice of Defense as provided in
6 section 11506 of the Government Code within fifteen (15) days after service of the Accusation
7 on you.

8 If you file any Notice of Defense within the time permitted, a hearing will be held
9 on the charges made in the Accusation.

10 The hearing may be postponed for good cause. If you have good cause, you are
11 obliged to notify the Office of Administrative Hearings, 1515 Clay Street, Suite 206, Oakland,
12 California 94612, within ten (10) working days after you discover the good cause. Failure to
13 notify the Office of Administrative Hearings within ten (10) days will deprive you of a
14 postponement.

15 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are
16 enclosed.

17 If you desire the names and addresses of witnesses or an opportunity to inspect
18 and copy the items mentioned in section 11507.6 of the Government Code in the possession,
19 custody or control of the Board you may send a Request for Discovery to the above designated
20 Deputy Attorney General.

21 **NOTICE REGARDING STIPULATED SETTLEMENTS**

22 It may be possible to avoid the time, expense and uncertainties involved in an
23 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated
24 settlement is a binding written agreement between you and the government regarding the matters
25 charged and the discipline to be imposed. Such a stipulation would have to be approved by the
26 Board of Pharmacy but, once approved, it would be incorporated into a final order.

27 Any stipulation must be consistent with the Board's established disciplinary
28 guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the

1 Board's Disciplinary Guidelines will be provided to you on your written request to the state
2 agency bringing this action.

3 If you are interested in pursuing this alternative to a formal administrative hearing,
4 or if you have any questions, you or your attorney should contact Deputy Attorney General
5 Joshua A. Room at the earliest opportunity.

6 *****

7 SF2006402253
8 40115539.wpd
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

CYNTHIA A. GARZA

Respondent.

Case No. 3017

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name

Respondent's Signature

Respondent's Mailing Address

City, State and Zip Code

Respondent's Telephone Number

Check appropriate box:

- ☐ I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name

Counsel's Mailing Address

City, State and Zip Code

Counsel's Telephone Number

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

40115539.wpd

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

CYNTHIA A. GARZA

Respondent.

Case No. 3017

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name _____

Respondent's Signature _____

Respondent's Mailing Address _____

City, State and Zip Code _____

Respondent's Telephone Number _____

Check appropriate box:

- ☐ I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

40115539.wpd

1 BILL LOCKYER, Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
4 California Department of Justice
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 CYNTHIA A. GARZA

14 Respondent.

Case No. 3017

REQUEST FOR DISCOVERY

[Gov. Code § 11507.6]

15 TO RESPONDENT:

16 Under section 11507.6 of the Government Code of the State of California, parties
17 to an administrative hearing, including the Complainant, are entitled to certain information
18 concerning the opposing party's case. A copy of the provisions of section 11507.6 of the
Government Code concerning such rights is included among the papers served.

19 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU
20 ARE HEREBY REQUESTED TO:

21 1. Provide the names and addresses of witnesses to the extent known to the
22 Respondent, including, but not limited to, those intended to be called to testify at the hearing, and
23 2. Provide an opportunity for the Complainant to inspect and make a copy of any of
24 the following in the possession or custody or under control of the Respondent:

25 a. A statement of a person, other than the Respondent, named in the initial
26 administrative pleading, or in any additional pleading, when it is claimed that the act or
27 omission of the Respondent as to this person is the basis for the administrative
28 proceeding;

1 b. A statement pertaining to the subject matter of the proceeding made by any
2 party to another party or persons;

3 c. Statements of witnesses then proposed to be called by the Respondent and
4 of other persons having personal knowledge of the acts, omissions or events which are the
5 basis for the proceeding, not included in (a) or (b) above;

6 d. All writings, including but not limited to reports of mental, physical and
7 blood examinations and things which the Respondent now proposes to offer in evidence;

8 e. Any other writing or thing which is relevant and which would be
9 admissible in evidence, including but not limited to, any patient or hospital records
10 pertaining to the persons named in the pleading;

11 f. Investigative reports made by or on behalf of the Respondent pertaining to
12 the subject matter of the proceeding, to the extent that these reports (1) contain the names
13 and addresses of witnesses or of persons having personal knowledge of the acts,
14 omissions or events which are the basis for the proceeding, or (2) reflect matters
15 perceived by the investigator in the course of his or her investigation, or (3) contain or
16 include by attachment any statement or writing described in (a) to (e), inclusive, or
17 summary thereof.

18
19 For the purpose of this Request for Discovery, "statements" include written
20 statements by the person, signed, or otherwise authenticated by him or her, stenographic,
21 mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person,
22 and written reports or summaries of these oral statements.

23
24 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for
25 Discovery should be deemed to authorize the inspection or copying of any writing or thing which
26 is privileged from disclosure by law or otherwise made confidential or protected as attorney's
27 work product.

28 ///


1 Your response to this Request for Discovery should be directed to the undersigned
2 attorney for the Complainant at the address on the first page of this Request for Discovery **within**
3 **30 days after service** of the Accusation.

4 Failure without substantial justification to comply with this Request for Discovery
5 may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30
6 of the Government Code.

7 DATED: 11/20/06

8 BILL LOCKYER, Attorney General
of the State of California

9 FRANK H. PACOE
10 Supervising Deputy Attorney General

11 
12 _____
13 JOSHUA A. ROOM
14 Deputy Attorney General
15 Attorneys for Complainant

16 40115539.wpd

COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

DECLARATION OF SERVICE
(Certified and First Class Mail)

In the Matter of the Accusation Against: *Cynthia A. Garza*
Agency Case No. 3017

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On November 20, 2006, I served the attached **Accusation, Statement to Respondent, Notice of Defense (2 copies), Request for Discovery, and Discovery Statutes** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the same document(s) was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

CYNTHIA A. GARZA
21 Larkfield Maples Court
Santa Rosa, CA 95403

Certified Article Number

7160 3901 9849 2870 8709

SENDERS RECORD

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on November 20, 2006 at San Francisco, California.

FE M. DOMINGO

Typed Name

fm Domingo

Signature

Exhibit C

Accusation No. 3017,
Related Documents and Declaration of Service
(Second Service)

BILL LOCKYER, Attorney General
of the State of California
JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-1299
Facsimile: (415) 703-5480

Attorneys for Complainant

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

CYNTHIA A. GARZA
21 Larkfield Maples Court
Santa Rosa, CA 95403

Pharmacy Technician License No. TCH 38775

Respondent.

Case No. 3017

OAH No.

A C C U S A T I O N

Complainant alleges:

PARTIES

1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as Interim Executive Officer, Board of Pharmacy, Department of Consumer Affairs.

2. On or about August 16, 2001, the Board of Pharmacy issued Pharmacy Technician License No. TCH 38775 to Cynthia A. Garza (Respondent). The License was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2007, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].

5. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked.

6. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Section 4402(a) of the Code provides that any license that is not renewed within three years following its expiration may not be renewed, restored, or reinstated and shall be canceled by operation of law at the end of the three-year period.

STATUTORY PROVISIONS

7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action against any holder of a license who is guilty of "unprofessional conduct," defined to include, but not be limited to, any of the following:

“(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

“(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

“(j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs.

///

“(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board.

...

8. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous drug or dangerous device except upon the prescription of an authorized prescriber.

9. Section 4060 of the Code provides, in pertinent part, that no person shall possess any controlled substance, except that furnished upon a valid prescription/drug order.

10. Section 4063 of the Code provides, in pertinent part, that no prescription for a dangerous drug may be refilled except upon authorization of the prescriber.

11. Health and Safety Code section 11158 provides, in pertinent part, that no controlled substance in Scheduled II-V may be dispensed without a prescription.

12. Health and Safety Code section 11170 provides that no person shall prescribe, administer, or furnish a controlled substance for himself or herself.

13. Health and Safety Code section 11173, subdivision (a), provides that no person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

14. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess certain Schedule I-III controlled substances, or any controlled substance in Schedules III-V which is a narcotic drug, unless upon written prescription of an authorized prescriber.

15. Health and Safety Code section 11377, in pertinent part, makes it unlawful to possess certain Schedule I-III controlled substances, or any controlled substance in Schedules III-V which is not a narcotic drug, unless upon written prescription of an authorized prescriber.

16. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation of the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

CONTROLLED SUBSTANCES / DANGEROUS DRUGS

17. Section 4021 of the Code states:

“‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.”

18. Section 4022 of the Code states, in pertinent part:

“‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, and includes the following:

“(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without prescription,’ ‘Rx only,’ or words of similar import.

...

“(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.”

19. **Norco, Vicodin, Vicodin ES, Lortab, and Lorcet** are brand names for compounds of varying dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous drug as designated by Business and Professions Code section 4022. These varying compounds are also known generically as **Hydrocodone with APAP**. These are narcotic drugs.

As is pertinent here:

a. **Norco 10/325** is a brand name for a compound combining 10 mg **hydrocodone** with 325 mg acetaminophen (APAP).

b. **Vicodin ES** is a brand name for a compound combining 7.5 mg **hydrocodone** with 750 mg acetaminophen (APAP).

c. **Hydrocodone/APAP 7.5/750** is the generic equivalent of **Vicodin ES**, i.e., a compound combining 7.5 mg **hydrocodone** with 750 mg acetaminophen (APAP).

20. **Ambien** is a brand name for **zolpidem tartrate**, a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(32) and a dangerous drug as designated by Business and Professions Code section 4022. It is a depressant drug. It is sold in either 5mg or 10mg tablets, thus **Ambien 10mg** designates the latter dosage.

21. **Soma** is a brand name for **carisoprodol**, a dangerous drug designated by Business and Professions Code section 4022, intended as a skeletal muscle relaxant. It is also known by its generic name **Carisoprodol 350mg**, designating the tablet/dosage amount.

FACTUAL BACKGROUND

22. From on or about November 4, 2001 until on or about February 24, 2005, Respondent was employed as a pharmacy technician at Wal-Mart Pharmacy 10-2553, located in Windsor, CA (PHY 44126). Respondent was subsequently employed by Walgreens Pharmacy as a float pharmacy technician from on or about May 16, 2005 until on or about October 14, 2005, primarily working at Walgreens Pharmacy 6722 (PHY 45955) located in Santa Rosa, CA.

23. While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her own prescriptions (prescriptions in her name) for **Norco 10/325** without proper authorization from the prescriber on June 11, 2004, July 20, 2004, and August 23, 2004, thereby acquiring a total of 300 tablets of **Norco 10/325**.

24. While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her own prescriptions (prescriptions in her name) for **Vicodin ES** without proper authorization from the prescriber on July 30, 2004, December 29, 2004, and January 18, 2005, thereby acquiring a total of 220 tablets of **Vicodin ES**.

25. While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her own prescriptions (prescriptions in her name) for **Hydrocodone/APAP 7.5/750** (generic **Vicodin ES**) without proper authorization from the prescriber on December 6, 2004, January 8, 2005, and February 24, 2005, thereby acquiring a total of 180 tablets of **Hydrocodone/APAP 7.5/750** (generic **Vicodin ES**). „

26. While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her own prescriptions (prescriptions in her name) for **Ambien 10mg** without proper authorization from the prescriber on July 29, 2004, December 6, 2004, and December 31, 2004, thereby acquiring a total of 90 tablets of **Ambien 10mg**.

///

1 27. While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her
2 own prescription (prescription in her name) for **Carisoprodol 350mg** (generic **Soma**) without
3 proper authorization from the prescriber on July 29, 2004, thereby acquiring a total of 100 tablets
4 of **Carisoprodol 350mg** (generic **Soma**).

5 28. While working at Wal-Mart Pharmacy 10-2553, Respondent created a
6 false prescription document for Patient D.C.¹ for **Carisoprodol 350mg** (generic **Soma**), for 90
7 tablets with two refills of the same number of tablets, on October 26, 2004.

8 29. While working at Wal-Mart Pharmacy 10-2553, Respondent created a
9 false prescription document for Patient D.C.¹ for **Carisoprodol 350mg** (generic **Soma**), for 90
10 tablets with three refills of the same number of tablets, on February 4, 2005.

11 30. While working at Walgreens Pharmacy 6722, Respondent refilled her own
12 prescriptions (prescriptions in her name) for **Hydrocodone/APAP 7.5/750** (generic **Vicodin ES**)
13 without proper authorization from the prescriber on August 3, 2005 and September 9, 2005,
14 thereby acquiring a total of 120 tablets of **Hydrocodone/APAP 7.5/750** (generic **Vicodin ES**).

15 31. While working at Walgreens Pharmacy 6722, Respondent conspired with
16 another pharmacy technician (M.P.)¹ to refill Respondent's own prescription (prescription in her
17 name) for 60 tablets of **Hydrocodone/APAP 7.5/750** (generic **Vicodin ES**), without proper
18 authorization from the prescriber, on September 23, 2005.

19 32. Respondent admitted that while at Walgreens Pharmacy 6722 she stole 3
20 tablets of **Vicodin ES**, and paid for/received 60 tablets of **Vicodin ES** on an unauthorized refill.

21
22 FIRST CAUSE FOR DISCIPLINE

23 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

24 33. Respondent is subject to discipline under section 4301(f) of the Code in
25 that Respondent, as described in paragraphs 22-31 above, committed acts involving moral
26 turpitude, dishonesty, fraud, deceit, or corruption.

27
28 1. A full name will be provided to Respondent as needed during discovery.

1 SECOND CAUSE FOR DISCIPLINE

2 (Creation/Signature of False Documents)

3 34. Respondent is subject to discipline under section 4301(g) of the Code in
4 that Respondent, as described in paragraphs 22-31 above, created and/or signed documents that
5 falsely represented the existence or nonexistence of a state of facts.
6

7 THIRD CAUSE FOR DISCIPLINE

8 (Unlawful Furnishing/Dispensing of Controlled Substances / Dangerous Drugs)

9 35. Respondent is subject to discipline under sections 4301(j) and/or (o) of the
10 Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate,
11 assisted in or abetted violation of or conspired to violate laws regulating controlled substances
12 and dangerous drugs and/or laws governing pharmacy, when Respondent furnished/dispensed to
13 herself or to others, without valid prescriptions, controlled substances and/or dangerous drugs, in
14 violation of section 4059 of the Code and/or Health and Safety Code section 11158.
15

16 FOURTH CAUSE FOR DISCIPLINE

17 (Unlawful Possession of Controlled Substances / Dangerous Drugs)

18 36. Respondent is subject to discipline under sections 4301(j) and/or (o) of the
19 Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate,
20 assisted in or abetted violation of or conspired to violate laws regulating controlled substances
21 and dangerous drugs and/or laws governing pharmacy, when Respondent possessed, without
22 valid prescriptions, controlled substances and/or dangerous drugs, in violation of section 4060 of
23 the Code and/or Health and Safety Code sections 11350 and/or 11377.
24

25 FIFTH CAUSE FOR DISCIPLINE

26 (Unlawful Refills Without Prescriber Authorization)

27 37. Respondent is subject to discipline under sections 4301(j) and/or (o) of the
28 Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate,

1 assisted in or abetted violation of or conspired to violate laws regulating controlled substances
2 and dangerous drugs and/or laws governing pharmacy, when Respondent, without prescriber
3 authorization, refilled and/or conspired to refill, prescriptions for controlled substances and/or
4 dangerous drugs, in violation of section 4063 of the Code.

5 6 SIXTH CAUSE FOR DISCIPLINE

7 (Unlawful Self-Furnishing of Controlled Substances)

8 38. Respondent is subject to discipline under sections 4301(j) and/or (o) of the
9 Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate,
10 assisted in or abetted violation of or conspired to violate laws regulating controlled substances
11 and dangerous drugs and/or laws governing pharmacy, when Respondent, in violation of Health
12 and Safety Code section 11170, self-furnished controlled substances and/or dangerous drugs.

13 14 SEVENTH CAUSE FOR DISCIPLINE

15 (Obtaining Controlled Substances by Fraud or Deceit)

16 39. Respondent is subject to discipline under sections 4301(j) and/or (o) of the
17 Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate,
18 assisted in or abetted violation of or conspired to violate laws regulating controlled substances
19 and dangerous drugs and/or laws governing pharmacy, when Respondent, in violation of Health
20 and Safety Code section 11173, obtained controlled substances and/or dangerous drugs by fraud,
21 deceit, misrepresentation, subterfuge, or by the concealment of a material fact.

22 23 EIGHTH CAUSE FOR DISCIPLINE

24 (Unprofessional Conduct)

25 40. Respondent is subject to discipline under section 4301 of the Code in that
26 Respondent, as described in paragraphs 23-28 above, engaged in unprofessional conduct.

27 ///

28 ///

PRAYER

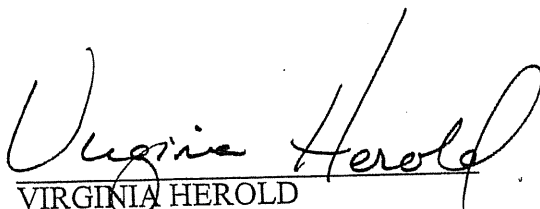
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy (Board) issue a decision:

A. Revoking or suspending Pharmacy Technician License No. Number TCH 38775, issued to Cynthia A. Garza (Respondent);

B. Ordering Respondent to pay the Board reasonable costs of investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

C. Taking such other and further action as deemed necessary and proper.

DATED: 10/31/06



VIRGINIA HEROLD
Interim Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

SF2006402253

40108378.wpd

BILL LOCKYER, Attorney General
of the State of California
FRANK H. PACOE
Supervising Deputy Attorney General
JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-1299
Facsimile: (415) 703-5480

Attorneys for Complainant

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

CYNTHIA A. GARZA

Respondent.

Case No. 3017

STATEMENT TO RESPONDENT

[Gov. Code §§ 11504, 11505(b)]

TO RESPONDENT:

Enclosed is a copy of the Accusation that has been filed with the Board of Pharmacy of the Department of Consumer Affairs (Board), and which is hereby served on you.

Unless a written request for a hearing signed by you or on your behalf is delivered or mailed to the Board, represented by Deputy Attorney General Joshua A. Room, within fifteen (15) days after a copy of the Accusation was personally served on you or mailed to you, you will be deemed to have waived your right to a hearing in this matter and the Board may proceed upon the Accusation without a hearing and may take action thereon as provided by law.

The request for hearing may be made by delivering or mailing one of the enclosed forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided in section 11506 of the Government Code, to

**Joshua A. Room
Deputy Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, California 94102.**

1 You may, but need not, be represented by counsel at any or all stages of these
2 proceedings.

3 The enclosed Notice of Defense, if signed and filed with the Board, shall be
4 deemed a specific denial of all parts of the Accusation, but you will not be permitted to raise any
5 objection to the form of the Accusation unless you file a further Notice of Defense as provided in
6 section 11506 of the Government Code within fifteen (15) days after service of the Accusation
7 on you.

8 If you file any Notice of Defense within the time permitted, a hearing will be held
9 on the charges made in the Accusation.

10 The hearing may be postponed for good cause. If you have good cause, you are
11 obliged to notify the Office of Administrative Hearings, 1515 Clay Street, Suite 206, Oakland,
12 California 94612, within ten (10) working days after you discover the good cause. Failure to
13 notify the Office of Administrative Hearings within ten (10) days will deprive you of a
14 postponement.

15 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are
16 enclosed.

17 If you desire the names and addresses of witnesses or an opportunity to inspect
18 and copy the items mentioned in section 11507.6 of the Government Code in the possession,
19 custody or control of the Board you may send a Request for Discovery to the above designated
20 Deputy Attorney General.

21 **NOTICE REGARDING STIPULATED SETTLEMENTS**

22 It may be possible to avoid the time, expense and uncertainties involved in an
23 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated
24 settlement is a binding written agreement between you and the government regarding the matters
25 charged and the discipline to be imposed. Such a stipulation would have to be approved by the
26 Board of Pharmacy but, once approved, it would be incorporated into a final order.

27 Any stipulation must be consistent with the Board's established disciplinary
28 guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the

1 Board's Disciplinary Guidelines will be provided to you on your written request to the state
2 agency bringing this action.

3 If you are interested in pursuing this alternative to a formal administrative hearing,
4 or if you have any questions, you or your attorney should contact Deputy Attorney General
5 Joshua A. Room at the earliest opportunity.

6 *****

7 SF2006402253
8 40115539.wpd
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

CYNTHIA A. GARZA

Respondent.

Case No. 3017

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name

Respondent's Signature

Respondent's Mailing Address

City, State and Zip Code

Respondent's Telephone Number

Check appropriate box:

- ☐ I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name

Counsel's Mailing Address

City, State and Zip Code

Counsel's Telephone Number

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

40115539.wpd

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

CYNTHIA A. GARZA

Respondent.

Case No. 3017

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name

Respondent's Signature

Respondent's Mailing Address

City, State and Zip Code

Respondent's Telephone Number

Check appropriate box:

- ☐ I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name

Counsel's Mailing Address

City, State and Zip Code

Counsel's Telephone Number

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

40115539.wpd

1 BILL LOCKYER, Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
4 California Department of Justice
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 CYNTHIA A. GARZA

14 Respondent.

Case No. 3017

REQUEST FOR DISCOVERY

[Gov. Code § 11507.6]

15 **TO RESPONDENT:**

16 Under section 11507.6 of the Government Code of the State of California, parties
17 to an administrative hearing, including the Complainant, are entitled to certain information
18 concerning the opposing party's case. A copy of the provisions of section 11507.6 of the
19 Government Code concerning such rights is included among the papers served.

20 **PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU**
21 **ARE HEREBY REQUESTED TO:**

- 22 1. Provide the names and addresses of witnesses to the extent known to the
23 Respondent, including, but not limited to, those intended to be called to testify at the hearing, and
- 24 2. Provide an opportunity for the Complainant to inspect and make a copy of any of
25 the following in the possession or custody or under control of the Respondent:
 - 26 a. A statement of a person, other than the Respondent, named in the initial
27 administrative pleading, or in any additional pleading, when it is claimed that the act or
28 omission of the Respondent as to this person is the basis for the administrative
proceeding;

1 b. A statement pertaining to the subject matter of the proceeding made by any
2 party to another party or persons;

3 c. Statements of witnesses then proposed to be called by the Respondent and
4 of other persons having personal knowledge of the acts, omissions or events which are the
5 basis for the proceeding, not included in (a) or (b) above;

6 d. All writings, including but not limited to reports of mental, physical and
7 blood examinations and things which the Respondent now proposes to offer in evidence;

8 e. Any other writing or thing which is relevant and which would be
9 admissible in evidence, including but not limited to, any patient or hospital records
10 pertaining to the persons named in the pleading;

11 f. Investigative reports made by or on behalf of the Respondent pertaining to
12 the subject matter of the proceeding, to the extent that these reports (1) contain the names
13 and addresses of witnesses or of persons having personal knowledge of the acts,
14 omissions or events which are the basis for the proceeding, or (2) reflect matters
15 perceived by the investigator in the course of his or her investigation, or (3) contain or
16 include by attachment any statement or writing described in (a) to (e), inclusive, or
17 summary thereof.

18
19 For the purpose of this Request for Discovery, "statements" include written
20 statements by the person, signed, or otherwise authenticated by him or her, stenographic,
21 mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person,
22 and written reports or summaries of these oral statements.

23
24 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for
25 Discovery should be deemed to authorize the inspection or copying of any writing or thing which
26 is privileged from disclosure by law or otherwise made confidential or protected as attorney's
27 work product.

28 ///

1 Your response to this Request for Discovery should be directed to the undersigned
2 attorney for the Complainant at the address on the first page of this Request for Discovery **within**
3 **30 days after service** of the Accusation.

4 Failure without substantial justification to comply with this Request for Discovery
5 may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30
6 of the Government Code.

7 DATED: 11/30/06

8 BILL LOCKYER, Attorney General
9 of the State of California

10 FRANK H. PACOE
11 Supervising Deputy Attorney General

12 

13 JOSHUA A. ROOM
14 Deputy Attorney General

15 Attorneys for Complainant

16 40115539.wpd
17
18
19
20
21
22
23
24
25
26
27
28

COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

DECLARATION OF SERVICE
(Certified and First Class Mail)

In the Matter of the Accusation Against: *Cynthia A. Garza*
Agency Case No. 3017

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On November 30, 2006, I served the attached **Accusation, Statement to Respondent, Notice of Defense (2 copies), Request for Discovery, and Discovery Statutes** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the same document(s) was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

CYNTHIA A. GARZA
P.O. Box 65831
Los Angeles, CA 90065

Certified Article Number

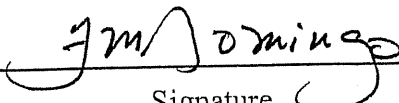
7160 3901 9849 2870 8693

SENDER'S RECORD

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on November 30, 2006 at San Francisco, California.

FE M. DOMINGO

Typed Name



Signature

REFERENCE: Acc Pkt

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

US Postal Service Receipt for Certified Mail No Insurance Coverage Provided Do Not Use for International Mail	POSTMARK OR DATE
---	------------------

2. Article Number		COMPLETE THIS SECTION ON DELIVERY	
 7160 3901 9849 2670 8693		A. Received by (Please Print Clearly)	B. C
		C. Signature X <i>Cynthia A. Garza</i>	
3. Service Type CERTIFIED MAIL		D. Is delivery address different from item 1? If YES, enter delivery address below:	
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes			
1. Article Addressed to: CYNTHIA A. GARZA P.O. Box 65831 Los Angeles, CA 90065			
Acc Pkt		JAR	
PS Form 3811, January 2005		Domestic Return Receipt	

